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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

IN RE INCRETIN-BASED
THERAPIES PRODUCTS LIABILITY
LITIGATION

Case No. 13md2452 AJB (MDD)

**DEFENDANTS MERCK SHARP &
DOHME CORP.'S, AMYLIN
PHARMACEUTICALS, LLC'S, AND
ELI LILLY AND COMPANY'S
NOTICE OF MOTION AND
MOTION TO DISQUALIFY DR. G.
ALEXANDER FLEMING AS AN
EXPERT WITNESS FOR
PLAINTIFFS**

Judge: Hon. Anthony J. Battaglia

Ctrm.: 3B

Hrg.: March 12, 2015

Time: 2:00 p.m.

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Case No. 13md2452 AJB (MDD)

DEFENDANTS' MOTION TO DISQUALIFY

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on March 12, 2015 at 2:00 p.m., or as soon
3 thereafter as counsel may be heard, in Courtroom 3B, Edward J. Schartz Courthouse,
4 United States District Court, District of Southern California, 221 West Broadway, San
5 Diego, CA 92101, before the Honorable Anthony J. Battaglia, Defendants Amylin
6 Pharmaceuticals, LLC, Eli Lilly and Company, and Merck Sharp & Dohme Corp.
7 (collectively, “Defendants”) will and hereby do move for an Order disqualifying Dr.
8 G. Alexander Fleming as an expert witness for Plaintiffs and striking his report on
9 preemption.

10 Defendants move to disqualify Dr. Fleming on the ground that Plaintiffs
11 provided him with substantial confidential information in violation of the Protective
12 Order. Dr. Fleming is currently a direct market competitor of Defendants in the
13 diabetes treatment community. As such, Plaintiffs’ counsel violated this Court’s
14 Protective Order by showing Dr. Fleming confidential documents without providing
15 Defendants the required fourteen days notice and an opportunity to object.

16 This notice is based on this Notice of Motion and Motion, the accompanying
17 Memorandum of Points and Authorities, all pleadings and papers on file in this action,
18 oral argument as permitted by the Court, and any such other matters that the Court
19 deems appropriate.

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1 Dated: January 20, 2015

By: s/ Ana C. Reyes

2 Attorney for Merck Sharp & Dohme Corp.
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4 By: s/ Amy J. Laurendeau

5 Attorney for Amylin Pharmaceuticals, LLC
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7 By: s/ Kenneth J. King

8 Attorney for Eli Lilly and Company, a
9 Corporation
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11 **SIGNATURE ATTESTATION**

12 I hereby certify that authorization for the filing of this document has been
13 obtained from each of the other signatories shown above and that all signatories
14 concur in the filing's content.

15 s/ Ana C. Reyes